

REMARKS

Claims 1-20 were originally filed in the application. In the outstanding Office Action, claims 1-20 were restricted into two groups of claims, namely, Group I consisting of claims 11 and 17-19 and Group II consisting of claims 12-16 and 20. The applicants respectfully traverse the restriction and provide the following arguments.

**THE STANDARD FOR REQUIRING RESTRICTION HAS NOT BEEN MET
BECAUSE THE PROCESS CANNOT BE PRACTICED
BY ANOTHER MATERIALLY DIFFERENT APPARATUS**

One manner of determining whether inventions are distinct is if it can be shown that either: (1) the process as *claimed* can be practiced by another materially different apparatus or by hand, or (2) the apparatus as *claimed* can be used to practice another and materially different process. The examiner stated that the inventions of Group I and II are distinct, because the process of applying a clip of any kind can be practiced by hand and a heat seal linking means can be used to fuse the casing as designated link length. The applicants respectfully disagree.

Claim 1, as now amended, recites, in part, "a vacuum filler...for stuffing a casing...a clip module...for applying a clip...to a stuffed casing..., and the clip module...being driven by the vacuum filler...". As such, the claim requires that the clip be applied via a clip module that is driven by the vacuum filler. Similarly, claim 12 recites, in part, "stuffing the casing...by means of a vacuum filler...applying a clip...by means of a clip module..., and driving the clip module...by the vacuum filler...". Here again, the claim requires that the clip be applied via a clip module that is driven by the vacuum filler.

The process, therefore, as *claimed* in claim 12 cannot be practiced by another materially different apparatus, other than the apparatus as is *claimed* in claim 1, and vice-versa. Accordingly, the restriction requirement should be withdrawn.

THE STANDARD FOR REQUIRING RESTRICTION HAS ALSO NOT BEEN MET
BECAUSE SEARCH AND EXAMINATION OF THE ENTIRE APPLICATION CAN BE
MADE WITHOUT SERIOUS BURDEN ON THE EXAMINER

Additionally, the restriction requirement is improper on its face because it does not meet the requirement that search and examination of the entire application must be a serious burden on the examiner. M.P.E.P. 803 states:

"If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

The applicants thus further traverse the restriction requirement on the ground that there is no evidence, or even allegation, that search and examination of the entire application would be a *serious burden* on the examiner, as required.

Since search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute these claims in separate applications. Search and examination of the two groups of claims together would be much more efficient than requiring the Patent Office and the applicants to do so separately in multiple applications.

PROVISIONAL ELECTION

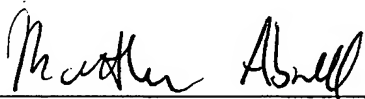
To satisfy 37 C.F.R. 1.143, the applicants hereby provisionally elect for examination on the merits, with traverse, the claims of Group I, i.e., claims 1-11 and 17-19. In doing so, the applicants do not intend to abandon the scope of the non-elected claims as originally filed, but may pursue the non-elected claims in a divisional application if the restriction requirement is not withdrawn upon reconsideration.

Respectfully submitted,

MARSHALL, GERSTEIN, & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357
(312) 474-6300

January 12, 2005

By:



Matthias Abrell
Reg. No.: 47,377
Attorney for Applicant